

Alan W. Chambers

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF WEST VIRGINIA  
3 CHARLESTON DIVISION  
4

5 IN RE: DIGITEK PRODUCT LIABILITY  
6 LITIGATION

7 ALAN CHAMBERS,  
8 Plaintiff

9 V

MDL NO. 2:08-1175

10 ACTAVIS TOTOWA, LLC, et al,  
11 Defendants  
12  
13

14 Oral deposition of ALAN W.  
15 CHAMBERS, taken at the law offices of  
16 Locks Law Firm, 457 Haddonfield Road,  
17 Suite 500, Cherry Hill, New Jersey, on  
18 Tuesday, September 22, 2009, commencing  
19 at approximately 10:20 a.m., before  
20 Maureen E. Broderick, a Registered  
21 Professional Reporter and Notary Public,  
22 pursuant to notice.  
23  
24  
25

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## EXHIBIT INDEX

Chambers

MARKED

1 Plaintiff Fact Sheet

42

1     whatever.

2     Q.     What did the technician tell you  
3     about the recall?

4     A.     Basically, they told me that the  
5     dosage was improper. She was very  
6     limited as to her information. The  
7     dosage, you know, was improper  
8     specifications. So that was the reason  
9     for the recall.

10    Q.     Did you ask her any questions  
11    about the recall?

12    A.     I just asked her why was it  
13    recalled and that's basically what she  
14    told me.

15    Q.     And you don't recall speaking to  
16    the pharmacist about the recall?

17    A.     No. No.

18    Q.     What did you do once you found out  
19    about the recall?

20    A.     Well, I was out of it, so I didn't  
21    take it. I waited for a short period of  
22    time to have somebody call me, which  
23    never happened.

24    Q.     So what did you personally do once  
25    you found out about the recall with

1 respect to your Digitek?

2 A. I had a routine -- I had a visit  
3 to my -- my cardiologist, I see him  
4 every three months. And in, I believe,  
5 it was June I went to see him.

6 I more or less left it up to  
7 my doctor to inform me as to any  
8 alternative or whatever, which didn't  
9 happen, basically.

10 Q. What did your doctor say to you  
11 about the Digitek recall when you saw  
12 him, you believe, in June?

13 A. I saw him in March, which was  
14 before the recall. I told him --

15 MR. PETTIT: Hang on. Just  
16 make sure you're answering the right  
17 question.

18 You can answer however you  
19 want, just answer his question after the  
20 recall.

21 THE WITNESS: Can you repeat  
22 the question. I forget what the --

23 BY MR. SIMON:

24 Q. Well, you were telling me that you  
25 saw your doctor before you found out

1 about the recall in March of 2008,  
2 correct?

3 A. Yes. It was a routine visit, yes.

4 Q. And did you discuss Digitek at all  
5 at that visit?

6 A. I mentioned to him that I was  
7 experiencing contractions and he said he  
8 felt it was the device. I have an  
9 implanted defibrillator and he mentioned  
10 that he thought it was the device  
11 causing that, the contractions, not the  
12 medication.

13 Q. And did you specifically ask him  
14 about the medication Digitek you were  
15 taking?

16 A. Yes, I did. Because I wasn't sure  
17 what was causing the severe  
18 contractions. I wasn't getting them all  
19 the time, but I was getting them. And  
20 they're different from palpitations.

21 I'm used to getting  
22 palpitations with my condition. These  
23 were strong contractions I was getting,  
24 which was different.

25 And he said -- that's when he

1 discussion with Dr. McDermet about your  
2 contractions in August --

3 A. That is correct.

4 Q. -- of 2008.

5 You have to wait until I  
6 finish my question.

7 A. Okay.

8 Q. And that's what prompted your  
9 discussion with Dr. McDermet about the  
10 contractions you were having in July and  
11 August of 2008.

12 A. Yes. That's correct.

13 Q. And the contractions you were  
14 having in July and August of 2008, were  
15 they similar to the contractions you  
16 were having back in March of 2008?

17 A. Yes. As far as I can recall, yes.

18 Q. Now, you indicated earlier that  
19 you routinely have what you described as  
20 palpitations, correct?

21 A. Yes.

22 Q. Describe for me what you mean by  
23 "palpitations."

24 A. It's been described by others,  
25 I've read, that there's a -- it feels

1 that they incurred.

2 Q. Did you incur any expenses for  
3 doctor visits as a result of your use of  
4 Digitek?

5 A. I have one doctor's visit in June,  
6 which was my doctor visit. That's  
7 basically a routine doctor visit.

8 Q. Are you seeking to recover for the  
9 expenses for that June office visit?

10 A. Yes. Yes.

11 Q. Was that a regularly scheduled  
12 three-month interval office visit?

13 A. Yes.

14 Q. And the June of 2008 office visit  
15 for which you seek to recover expenses  
16 would have occurred even if you weren't  
17 taking Digitek.

18 A. That's correct.

19 Q. Did you undergo any testing as a  
20 result of your use of Digitek?

21 A. No.

22 Q. Are you seeking to recover for any  
23 testing that you underwent?

24 A. No.

25 Q. Have your physicians suggested to

1 and continue to have them periodically  
2 on an ongoing basis?

3 A. That's correct.

4 Q. Why did you want to become  
5 involved in this lawsuit?

6 A. My feelings are that being that  
7 the product was recalled, that people,  
8 like myself, that were taking the  
9 product, the medication, are entitled to  
10 reimbursement of expenses that may have  
11 been -- that was, you know, directly  
12 responsible from the recalled Digitek;  
13 testing, doctors' visits, medication,  
14 whatever.

15 Q. What expenses are you claiming  
16 were directly caused by your use of the  
17 recalled Digitek?

18 A. It would have been the expense of  
19 the medication itself.

20 Q. How much were you paying for your  
21 Digitek?

22 A. I pay \$5 copay each time I take  
23 out a prescription.

24 Q. Do you pay \$5 for all your  
25 medications?



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1 A. Approximately two hours.

2 Q. Did you review any documents in  
3 preparation for today's deposition?

4 A. My medical records.

5 Q. Anything else?

6 A. No. Other than that, it was...

7 Q. What medical records did you  
8 review?

9 A. My visits to my cardiologist in  
10 2008.

11 Q. Did you review any other medical  
12 records, besides your cardiologist,  
13 cardiology visits, in 2008?

14 A. No.

15 Q. Did you take any notes during your  
16 deposition preparation session?

17 A. No.

18 Q. Did you review any of the legal  
19 documents that were filed in this case?

20 A. No.

21 Q. Have you ever reviewed the  
22 Complaint that was filed in this case?

23 A. No, I haven't.

24 Q. Have you ever reviewed what is  
25 called a Plaintiff Fact Sheet with a

1 A. No. Other than it was probably  
2 just a -- the only time I ever see him  
3 is a routine scheduled visit.

4 Q. Now, Dr. Burke's note indicates  
5 that you were doing better and the heart  
6 rate was controlled.

7 Is that an accurate  
8 assessment of how you were feeling at  
9 that time?

10 A. Yes. I was feeling better because  
11 of the -- I had had the defibrillator  
12 done the year before, May of 2007, and  
13 overall I was feeling better, yes. I  
14 improved rather significantly.

15 Q. The next office visit occurred,  
16 according to the records, on March 13th  
17 of 2008.

18 A. Yes.

19 Q. And at that visit it was noted  
20 that you self-discontinued digoxin.

21 Does that refresh your  
22 recollection or remind you of anything?

23 A. As far as I can recall, I guess if  
24 it records it.

25 I was concerned because I was

1 Q. First of all, had you restarted  
2 the Digitek as Dr. Burke asked you to do  
3 in March?

4 A. I went to -- I ran out of the  
5 Digitek and then I was taking the  
6 Digitek through that period. And when  
7 the recall came about, I ran out, I had  
8 run out. So that's why I went in to get  
9 it refilled and they informed me about  
10 the recall.

11 So it was probably this --  
12 within a week or so of that visit. That  
13 would have been, I guess, before the  
14 recall, I guess.

15 Q. Right.

16 But you would have started  
17 taking the Digitek again, as Dr. Burke  
18 instructed you to do --

19 A. Yes. That's correct.

20 Q. -- in March of 2008.

21 A. That's correct. Yes.

22 Q. Then you came back in April of  
23 2008 to get a refill of the Digitek?

24 A. Either it would have been April or  
25 early May, whenever the -- it was within

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1 A. No.

2 Q. Do you have any of the packaging  
3 material or pill vials that your Digitek  
4 prescriptions came in?

5 A. No.

6 Q. What did you do with those?

7 A. Tossed them out when I was  
8 finished.

9 Q. Did you have any leftover Digitek  
10 tablets?

11 A. No.

12 Q. So all the Digitek tablets you had  
13 you took.

14 A. Yes.

15 Q. What about digoxin tablets; do you  
16 have any --

17 A. Yes.

18 Q. -- remaining digoxin tablets?

19 A. Yes. My attorney has them.

20 Q. What type of packaging did the  
21 digoxin tablets come in?

22 A. Regular pharmacy, orange,  
23 childproof cap type. Standard pharmacy  
24 bottle.

25 Q. And you gave that to your

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1 Q. Did you notice anything different  
2 about the pills?

3 A. No.

4 Q. Did you ever take more than one  
5 Digitek pill at a time?

6 A. No.

7 Q. Would you take your Digitek  
8 medication with a meal?

9 A. Yes.

10 Q. What meal would you take your  
11 Digitek with?

12 A. Depending on what time I took it,  
13 in the day, which would be breakfast.

14 Q. What do you normally have for  
15 breakfast?

16 A. I have cereal, maybe a glass of  
17 orange juice, a piece of toast  
18 sometimes.

19 Q. In 2008 were you taking any  
20 non-prescription medications?

21 A. No.

22 Q. What about any herbal products or  
23 natural remedies?

24 A. No.

25 Q. Have any of your physicians or

1 healthcare providers told you that you  
2 experienced digoxin toxicity?

3 A. No.

4 Q. Did any of your physicians or  
5 healthcare providers indicate to you  
6 that you experienced a Digitek or  
7 digoxin overdose?

8 A. No.

9 Q. Do you believe that you received a  
10 double dose of Digitek?

11 A. I wouldn't be aware of it as a  
12 layman.

13 Q. Are you claiming that you have or  
14 may develop any mental, psychological or  
15 emotional conditions as a result of your  
16 use of Digitek?

17 A. No.

18 Q. Is it accurate to say that you  
19 have not had to limit your daily  
20 activities in any way because of your  
21 use of Digitek?

22 A. Yes, it's accurate.

23 Q. Any limitations are due to your  
24 underlying heart condition, correct?

25 A. That's correct. My heart

1 Q. They instructed you verbally that  
2 there was a recall.

3 A. Yes.

4 Q. You understand that this lawsuit  
5 is a class action lawsuit, correct?

6 A. Yes.

7 Q. What does that mean to you?

8 A. It's a representation of, in my  
9 case, residents of New Jersey to be  
10 compensated for financial outgo  
11 pertaining to doctors' visits,  
12 medication expenses, and any testing  
13 involved with Digitek, with the recalled  
14 Digitek.

15 Q. Do you understand that you could  
16 have filed an individual claim relating  
17 to your purchase of Digitek?

18 A. I'm not totally aware of that.  
19 But I imagine there's other avenues I  
20 could pursue, but I didn't.

21 Q. Do you understand that you have  
22 special duties or responsibilities as a  
23 class representative?

24 A. Yes.

25 Q. What do you understand those

1 fact that I'm not -- it's not a personal  
2 injury case, I don't -- I'm kind of  
3 having trouble correlating that with the  
4 question you asked me.

5 Like my attorney said, it's  
6 kind of a vague -- I don't know.

7 BY MR. SIMON:

8 Q. Do you need ongoing medical  
9 monitoring or testing as a result of  
10 your use of Digitek?

11 A. Not that I'm aware of, no.

12 Q. Are you representing a class of  
13 people who need ongoing medical testing  
14 or monitoring?

15 A. I'm representing simply people, as  
16 I stated before, that are to be  
17 compensated for expenses that they --  
18 when they were under the recalled  
19 product, pertaining to doctors' visits  
20 or any testing and medication expenses.

21 That's the only understanding  
22 I have of what I'm representing.

23 Q. Do those people who you represent,  
24 do their expenses include future medical  
25 testing and monitoring as a result of



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1 their use of Digitek?

2 A. I can't answer that.

3 Q. Why not?

4 A. I think if it's a result of the  
5 problem with the Digitek and it's  
6 related to expenses that they had to  
7 incur for periodic testing, I would say  
8 whatever test they need to have as a  
9 result of the recalled product, that  
10 would be covered in compensation.

11 Q. Do you recognize that there may be  
12 some people who believe they were  
13 physically or mentally injured because  
14 of their use of Digitek?

15 A. I understand there may be people.  
16 In my -- In my situation here, I don't  
17 believe I represent them, but I do  
18 understand what you're saying there.

19 Q. And those people would have also  
20 paid for their Digitek, correct?

21 A. Yes.

22 Q. But you're not seeking to recover  
23 anything, other than the purchase price  
24 in your lawsuit, correct?

25 A. Well, I didn't have any testing or

1 anything. I guess, yeah, that would be  
2 the case, yes, in my particular...

3 Q. Do you understand that it's  
4 possible by limiting their claims to a  
5 refund claim, that you may prevent them  
6 from filing a separate suit about their  
7 claimed physical injuries?

8 MR. PETTIT: Object to the  
9 form.

10 THE WITNESS: I'm not an  
11 attorney, obviously. So I'm not aware  
12 of how the legal process proceeds. I'm  
13 here to represent them in this initial  
14 case.

15 BY MR. SIMON:

16 Q. How was it that you were selected  
17 as a class representative?

18 MR. PETTIT: Object to the  
19 form.

20 THE WITNESS: I was asked if  
21 I would like to represent the class.

22 BY MR. SIMON:

23 Q. Why do you want to represent the  
24 proposed class?

25 MR. PETTIT: Objection.

1 A. Right. I still have the machine.

2 I don't use it.

3 Q. What is the total amount that  
4 you're claiming in this lawsuit for you  
5 personally?

6 A. I guess my own situation -- my own  
7 situation would be for three -- I  
8 believe I had three prescriptions. I  
9 might be incorrect with that.

10 My insurance pays -- I pay a  
11 copay on my prescriptions. So my  
12 out-of-pocket expense is \$5 a  
13 prescription.

14 Q. So a total of \$15, obviously.

15 A. Right. I didn't have any testing  
16 or anything else involved with it, other  
17 than my routine visits.

18 I don't believe the -- well,  
19 I looked at the digoxin and that wasn't  
20 that expensive anyway. The digoxin one,  
21 later on. I guess it's listed on there.

22 Q. Did you pay the same amount for  
23 those prescriptions?

24 A. I pay \$5 for each. It's a copay,  
25 \$5 of my health plan, yes.

1 Q. By "those prescriptions," I mean  
2 the digoxin.

3 A. These here, yes, they would have  
4 been \$5, too. I believe if it's a  
5 generic -- or if it's brand name, it's  
6 15 or 20, something like that. But, I  
7 guess, this is generic digoxin, I  
8 believe.

9 Most likely I would have paid  
10 \$5. I don't have my receipts or  
11 anything with the Digitek, but it would  
12 have probably been \$5.

13 MR. UNDERHILL: I don't think  
14 I have anything else, unless you want to  
15 follow up.

16 MR. SIMON: I think so.

17 EXAMINATION

18 BY MR. SIMON:

19 Q. I think one more question,  
20 Mr. Chambers.

21 A. Sure.

22 Q. Did you receive the same benefit  
23 from the Digitek that you received from  
24 taking the digoxin?

25 MR. PETTIT: Object to the

1 form.

2 THE WITNESS: Based on the  
3 problems I had with the contractions, I  
4 don't feel it was a beneficial -- I  
5 don't think it was a benefit.

6 My own personal experience, I  
7 haven't had the severe contractions  
8 since I stopped taking it, so...

9 BY MR. SIMON:

10 Q. Is it fair to say that you  
11 received the same lack of benefit from  
12 the Digitek that you received from the  
13 digoxin?

14 MR. PETTIT: Object to the  
15 form.

16 THE WITNESS: I don't know  
17 how to answer that myself. Other than a  
18 lack of benefit, basically. Yeah.

19 MR. SIMON: Can you read the  
20 question back to him. That may help.

21 (The court reporter read back  
22 the following:

23 "QUESTION: Is it fair to say  
24 that you received the same lack of  
25 benefit from the Digitek that you

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WITNESS CERTIFICATION

I hereby certify that I  
have read the foregoing transcript of my  
deposition testimony, and that my  
answers to the questions propounded,  
with the attached corrections or  
changes, if any, are true and correct.

DATE

ALAN W. CHAMBERS

PRINTED NAME